

August 21, 2017

By Hand Delivery

Honorable Judge Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: In re Bernard L. Madoff - Case No. 08-01789 (SMB)

Dear Judge Bernstein:

I write regarding the *Trustee's Proposed Order Authorizing The Continued Deposition Of Bernard L. Madoff On Day Two Topics* in connection with the above-referenced adversary proceeding. I apologize for not attending the hearing on this order. I am out of the country and I thought it unwise to send someone from the office who was unfamiliar with this case.

Our proposal to add ten Dentons clients to the list of Participating Customers has provoked the Trustee's strong opposition because these defendants were not on the original list of participants. However, this discovery really should be available to all defendants. Trading in the defendants' accounts is a central issue of the Trustee complaints. The complete fabrication of the account statements by BLMIS is a key to the Trustee's theory of the cases against the innocent customers. However, it appears now that the allegations in the complaints and the Trustee's repeated theatrical protestations about the nature of the fraud may not be accurate. The complaints, in each case amended in January 2012, four years after the SEC commenced the action against BLMIS, allege, among many other similar allegations, in the section called the "The Fraudulent Ponzi Scheme" as follows:

"Although the clients of the IA business received monthly or quarterly statements purportedly showing the securities that were held in--or had been traded through--their accounts, as well as the growth of and profits from those accounts over time, the trades reported on those statements were a complete fabrication. The security purchases and sales depicted in the account statements virtually never occurred and the profits were entirely fictitious."

and

Indeed, based on the Trustee's investigation to date and with the exception of isolated individual trades for certain parties other than the defendants, there is no record of BLMIS having cleared any purchase or sale of securities on behalf of the IA business at Depository Trust & Clearing Corporation, the clearing house for such transactions.

The Trustee uses this story of a classic Ponzi scheme, created days after Madoff's arrest and never altered, to invoke a line of Ponzi scheme cases that limit defendants' recovery to principal deposits and ignore the securities law implications of a SIPA proceeding and state law securities remedies. The Madoff testimony to date and the trading records produced controvert the Trustee's allegations. The Dentons defendants should not be denied an opportunity to concluded the discovery process in the second day of deposition of Bernard Madoff to prepare their defense.

Sincerely,

A handwritten signature in blue ink that reads "Carole Neville" followed by a stylized monogram or initials.

Carole Neville

cc: David J. Sheehan, Esq. (*by hand delivery*)
Helen D. Chaitman, Esq. (*via email*)